TESTIMONY OF KEVIN MCGUIRE
Hearing before the Senate Committee on Indian Affairs regarding S. 2017

April 24, 2002

Good morning.

My name is Kevin McGuire. I am the Chairman and Chief Executive Officer of Palm Desert National Bank in Palm Desert, California.

Palm Desert National Bank began making loans to Indian tribes and tribal entities in 1985. The projects with which we have been involved include a tire re-cycling plant for the Cabazon Band Of Mission Indians for $7.5Million and most recently we were the lender for a $18 million refinancing and construction project for the Picuris Pueblo in New Mexico. We continue to actively seek opportunities to make loans of all sizes for economic enterprise development in Indian country throughout the United States.

As an Indian country lender, we have learned that, while many economic development efforts in Indian country can be sparked with relatively small amounts of capital, many tribal development efforts require capital in the form of cash and loans that exceed the lending limits and loan concentration limits to which small- and mid-sized community banks are subject. Our experiences as a community bank lead us to conclude that the creation of a secondary market in BIA guaranteed loans will increase opportunities for lending in Indian country without significant additional cost to the parties and with no additional cost to the federal government.

An institutionalized secondary market for BIA-guaranteed loans will facilitate the sale to investors of BIA guaranteed loans, putting capital back into the originating bank that then can be loaned again. Additionally, lenders will be able to originate more loans without violating laws and regulations that limit the amount that banks may lend to a particular borrower (a function of the bank's size) and that prohibit banks from having in their portfolios too many loans of a single type.

If only large banks invested in Indian country, lending limits and loan concentrations would be less of an issue. However, community banks – those most familiar with their Native American neighbors – make many of the loans earmarked for tribal economic development. Therefore, the constraints imposed banking law lending limits and loan concentration limits are significant problems – problems that can be resolved by the passage of S. 2017.

Since the current Indian Financing Act BIA guaranteed loan program permits lenders to transfer portions or all of BIA guaranteed loans that they originate, why creation of a secondary market is necessary? There are two primary reasons.

First, finding participants willing to purchase loans to tribes or tribal enterprises, whether or not they are guaranteed by BIA, is very difficult and time-consuming. This is so because few lenders are familiar with the Indian Financing Act program or the benefits of lending in Indian country. As a result, closings are delayed and costs escalate. We believe that the existence of an institutionalized secondary market will make selling tribal loans much easier.

Second, there is already a secondary market for commercial loans (for example, the SBA, U.S.D.A. and FARMER MAC programs). Investors are familiar with, and are comfortable purchasing loans from, the existing programs. However, as it now exists, the Indian Financing Act guaranteed loan program is structured differently than other government guaranteed loan programs. The differences and lack of familiarity make investors unwilling to invest in BIA guaranteed loans.

The secondary market contemplated by S. 2017 is modeled after the existing SBA and USDA programs. The basic structure is the same. The risk to investors is the same. Hence, investors who purchase loans from other government guaranteed programs will be likely also to purchase BIA guaranteed loans. At the same time, federal dollars are at no greater risk than under the current BIA program because BIA will retain the right to look to the servicing lender to recover any losses that could have been avoided by proper servicing. Additionally, like in other programs, the fees of a fiscal transfer agent will be paid by the lender or the borrower, not the government.

The bottom line, then, is that S. 2017 offers an opportunity for the private secondary market in commercial loans to work to increase capital for development of economic enterprise in Indian country, just as the secondary market in SBA guaranteed loans has increased the capital available to small businesses throughout the United States. We urge this Committee to support this important bill.

Thank you very much for the opportunity to address this Committee and for your favorable consideration of S. 2017.